

BEFORE THE
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Prince Post Office
Prince, West Virginia

Docket No. A2012-61

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(January 18, 2012)

I. INTRODUCTION AND BACKGROUND

On November 8, 2011, the Commission docketed a petition to review the closing of the Prince Post Office.¹ On November 23, 2011, the Postal Service filed an electronic version of the administrative record concerning its Final Determination, Postal Service Docket Number 1378414-25907.² On November 28, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative, and establishing a procedural schedule.³ On November 30, 2011, the Commission received a second petition to review the closing of the Prince Post Office.⁴ On January 3, 2012, the Postal Service filed comments supporting its closure determination on date, in lieu of a legal brief.⁵

¹ Letter by Charles Armentrout, November 8, 2011. (Armentrout Letter).

² United States Postal Service Notice of Filing Administrative Record, November 23, 2011. (AR).

³ Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 28, 2011. (Order No. 1002).

⁴ Letter by Charles A. Addison, November 30, 2011. (Addison Letter).

⁵ United States Postal Service Comments Regarding Appeal, January 3, 2012 (Postal Service Comments).

II. STATEMENT OF FACTS

The Prince Post Office is an EAS-55 level post office in Prince, West Virginia. AR, Item No. 1 at 1. Before being closed, the Prince Post Office provided service to 74 post office box customers. *Id.*

On February 7, 2011, the Manager of Postal Operations requested permission to investigate the possible closure of the Prince Post Office. *Id.* The District Manager granted the request. *Id.*

On March 18, 2011, the Postal Service notified customers of the Prince Post Office of a "possible change in the way your postal service is provided." AR, Item No. 21 at 1. The notice stated that the Postal Service would like to provide pickup and delivery of the Prince community's mail, as well as the sale of stamps and all other customary postal services, by Highway Contract Route service emanating from the Piney View Post Office⁶ located 5.4 miles away. *Id.* Included was a questionnaire to be completed and returned by April 19, 2011. *Id.* In addition, customers were invited to attend a public meeting on April 19, 2011, at which Postal Service representatives would be available to answer questions and provide information about postal service.

Of the 90 questionnaires distributed by the Postal Service, 24 were completed and returned: 3 responded favorably to the proposal; 7 expressed opposition or concern; and 14 expressed no opinion. AR, Item No. 23 at 1. The meeting was held on April 19, 2011, as scheduled, with 9 customers in attendance. AR, Item No. 24 at 1.

On June 9, 2011, a formal proposal to close the Prince Post Office was forwarded to that post office for posting for a period of sixty days. AR, Item No. 31 at 1. An invitation to file comments was also posted in the Prince Post Office. AR, Item No. 32 at 1. Eight comments were received during the posting period that ended August 15, 2011. AR, Item No. 40 at 1. That proposal was transmitted to the Vice President for Delivery and Post Office Operations on August 19, 2011. AR, Item No. 45 at 1.

⁶ AR, Item No. 1 at 1 and AR, Item No. 18 at 1 indicate that the proposed administrative office is the Beckley Post Office.

On September 26, 2011, the Final Determination to close the Prince Post Office was approved.⁷ The decision was based upon (1) workload and revenue decline; (2) small number of customers; and (3) minimal number of daily retail transactions. *Id* at 2. The Final Determination indicates that the proposed replacement administrative office is now the Beckley Post Office. *Id*. The Postal Service estimates that it will save \$33,838 from closing the Prince Post Office. *Id* at 6. The Final Determination considered and responded to various concerns expressed by postal customers during the public commented period concerning the proposal to close the Prince Post Office. *Id* at 2. The Final Determination noted that the Postal Service received a congressional inquiry on March 17, 2011. *Id*.

III. POSITIONS OF THE PARTIES

A. The Petitioners

The Petitioners present two arguments in opposition to the closing of the Prince Post Office: (1) the Postal Service failed to consider the effect of the closing on the Prince, WV community; and (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal service to the Prince, WV community. Specifically, Petitioner Armentrout asserts that closing the Prince Post Office will be burdensome to the Prince community because it would require a 20-mile round trip to get stamps. Armentrout Letter at 1. In addition, he states that the Prince community has many senior citizens. *Id*. Petitioner Addison states that closing the Prince Post Office would require residents to make long and dangerous trips to the Beckley Post Office, particularly during winter months. Addison Letter at 1.

B. The Postal Service

On January 3, 2012, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 1002. In that filing, the Postal Service supports its decision to close Prince Post Office, on the basis that it has: (1) followed the proper procedural

⁷ Final Determination to Close the Prince, WV Post Office and Establish Service by Rural Route Service, posted October 7, 2011. (FD).

requirements of 39 U.S.C. 404(d); (2) considered the effect of closing the Prince Post Office on postal services provided to Prince Post Office customers; (3) considered the effect of its decision to close the Prince Post Office on the Prince community; (4) it properly considered the economic savings that would result from the proposed closing; and (5) considered the impact on employees from closing the Prince Post Office. Postal Service Comments 3-13.

With respect to the Petitioners concerns about traveling to the Beckley Post Office, the Postal Service explains that the replacement service will be provided to the Prince community through rural route service emanating from the Beckley Post Office. Postal Service Comments at 6-7. In this regard, the Postal Service notes that rural carrier can perform many functions that alleviate the need to travel to nearby post offices for most transactions, including obtaining stamps and money orders. *Id.* at 6. In addition, the Postal Service explains that many services do not require direct interaction with a carrier, including purchasing stamps by mail. *Id.*

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A).

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Prince Post Office, and the Postal Service Comments, the Public Representative concludes that the Postal Service has followed applicable procedures, that the decision to close the Prince Post Office is not arbitrary or capricious, and that the Postal Service's decision is supported by substantial evidence.

VI. CONCLUSION

For the reasons set forth above, the Postal Service's decision to close the Prince Post Office should be affirmed.

Respectfully Submitted,

/s/ Derrick D. Dennis
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